



# भारत का राजपत्र The Gazette of India

असाधारण

EXTRAORDINARY

भाग II—खण्ड 2

PART II—Section 2

प्राधिकार से प्रकाशित

PUBLISHED BY AUTHORITY

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मई बिल्ली, शुक्रवार, मार्च 10, 1989/फाल्गुन 19, 1910

No. 5]

NEW DELHI, FRIDAY, MARCH 10, 1989/PHALGUNA 19, 1910

इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके।

Separate paging is given to this Part in order that it may be filed as a separate compilation.

## LOK SABHA

The following Bills were introduced in Lok Sabha on the 10th March, 1989:—

BILL NO. 120 OF 1988

*A Bill to put restriction on number of holidays in public offices.*

Be it enacted by Parliament in the Thirty-ninth Year of the Republic of India as follows:—

1. (1) This Act may be called the Restriction on Holidays in Public Offices Act, 1988.

(2) It extends to the whole of India.

(3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

2. In this Act, unless the context otherwise requires,—

(a) “public holiday” means a holiday observed by the State;

(b) “public office” means and includes all offices, establishments working for, or under the authority of, the State;

(c) “the State” includes the Government of India, the Union territory administrations and all other authorities within the territory of India under the control of the Government of India.

Short  
title,  
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Public  
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to be  
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basis of  
religion,  
etc.

3. The State shall not declare any day as public holiday solely on the consideration of religion, race, community, caste, creed, region, tradition or festival.

National  
holidays.

4. There shall be observed national holidays on Independence Day, Republic Day and the birthday of Mahatma Gandhi.

No  
public  
holiday  
on the  
death of  
a person.

5. The State shall not declare any holiday on the death of any person.

Provision  
of one  
holiday  
in a week.

6. The State shall observe only one day in a week as a holiday.

## STATEMENT OF OBJECTS AND REASONS

In our country a large number of holidays given are based on religion, community, region, etc. and also holidays are declared on the death of high dignitaries. It has been calculated that the teachers all over India work only for 3-4 months in a year and the rest of the months are holidays. Similarly, in the Government offices and Government of India Undertakings, the man power loss is highest in the world due to the large number of holidays. The large number of holidays in a country like India is a national loss. The country cannot progress until and unless long hours of work is put in. To remove the poverty and for increasing the industrial production, it is necessary to put a restriction on the number of public holidays.

Hence this Bill.

NEW DELHI;

S. B. SIDNAL

October 19, 1988,

## BILL NO. 118 OF 1988

*A Bill to provide for the establishment of a National Child Welfare Board for welfare of children and for matters connected therewith.*

BE it enacted by Parliament in the Thirty-ninth Year of the Republic of India as follows:—

Short  
title  
and  
extent.

1. (1) This Act may be called the National Child Welfare Board Act, 1988.

(2) It extends to the whole of India.

Defini-  
tion.

2. In this Act, unless the context otherwise requires, "child" means a person who is under the age of eighteen years.

3. (1) There shall be established by the Central Government a Board to be known as the "National Child Welfare Board" (hereinafter referred to as the "National Board"), which shall consist of a Chairman and four other members having special knowledge or practical experience in the fields of education, medicine, sports, culture and social services.

Establishment of National Child Welfare Board.

(2) It shall be the duty of the Board to enunciate the national policy for the development of the child.

4. There shall be established by every State Government or Union territory Administration a Board to be known as the "State or Union territory Child Welfare Board", as the case may be (hereinafter referred to as the "State Board" or "Union territory Board"), which shall consist of a Chairman and such number of other members, as the State Government or the Union territory Administration may determine, who shall have special knowledge or practical experience in the fields of education, medicine, sports, culture and social service.

Establishment of State or Union territory Child Welfare Boards.

5. It shall be the duty of every State and Union territory Board to—

Duties of State or Union territory Boards.

(i) advise and guide the National Board as regards—

(a) the ways to improve the health and proper maintenance of the children,

(b) the type of education which is to be imparted to each child, including technical education and vocational training;

(ii) provide education, uniform, transportation and meals, etc. free to every child upto the tenth standard; and

(iii) select children for higher and technical education and to meet all their expenses.

6. It shall be the duty of the Central Government to carry out the policy of the National Board into effect through release of funds and materials.

Duty to carry out the policy of National Board.

7. (1) The Central Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

Power to make rules.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for—

(a) the salary and other allowances payable to the members of the National Board, State Boards and Union Territory Boards;

(b) the appointment of other staff and provision of office and furniture, etc. for the Boards;

(c) any other matter which has to be, or may be, prescribed,

## STATEMENT OF OBJECTS AND REASONS

India is a developing country and a large number of people are uneducated, unemployed and poor. Moreover, the children, who are the future of the country, are under-nourished and education is not being imparted to them as per the requirement of the present times. The rich people can spend money for better education of their children, whereas the large majority of the poor people cannot afford to utilise the natural potentialities of their children. Due to the lack of proper nourished diet and health care, the children become victims of a number of incurable diseases. Therefore, there is an urgent need to formulate a national policy for the development of children. The Child Welfare Boards will examine the capability and capacity of a child and make recommendations for the better development of the child. This will also result in lesser drop-outs from schools.

Hence this Bill.

NEW DELHI;

S. B. SIDNAL

October 12, 1968.

## FINANCIAL MEMORANDUM

Clause 3 of the Bill provides for the establishment of the National Child Welfare Board. Clause 4 provides for the establishment of State or Union territory Child Welfare Boards. Clause 5(ii) provides for provision of education, uniform, etc. free of cost to all children upto tenth standard. Clause 5(iii) provides for selection of children for higher and technical education and for meeting of all of their expenditure by the State or Union territory Boards. Clause 6 provides that it shall be the duty of the Central Government to carry out the policy of National Board by means of funds and materials. Clause 7(2) provides for payment of salary and other allowances to members of National Board, State and Union territory Boards. It also provides for appointment of other staff and provision of office furniture, etc. for the Boards. The Bill, therefore, if enacted, is likely to involve a recurring expenditure of about rupees fifty lakhs per annum from the Consolidated Fund of India.

It is also likely to involve a non-recurring expenditure of about rupees twenty-five lakhs.

## MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 7 of the Bill empowers the Central Government to make rules to carry out the purchase of the Bill. Sub-clause (2) of that clause enumerates the various matters in respect of which rules may be made. The matters in respect of which rules may be made are matters of procedure or detail only. The delegation of legislative power is, thus, of a normal character.



## BILL NO. 10 OF 1989

*A Bill to consolidate the law relating to solemnization of marriages, divorce and matrimonial causes of persons professing the Christian religion in India.*

BE it enacted by Parliament in the Fortieth Year of the Republic of India as follows:—

## PRELIMINARY

1. (1) This Act may be called the Christian Marriage and Matrimonial Causes Act, 1989.

(2) It extends to the whole of India except the State of Jammu and Kashmir, and applies also to Christians domiciled in the territories to which this Act extends who are outside the said territories.

(3) Section 6 shall come into force at once, and the remaining provisions of this Act shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

Short  
title,  
extent  
and  
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mence-  
ment.

Def-  
initions.

2. In this Act, unless the context otherwise requires:—

(a) “Christian” means a person professing the Christian religion;

(b) “church building” includes any chapel or other building generally used for public Christian worship;

(c) “desertion” means the withdrawal by one spouse, without reasonable cause and without the consent or against the wish of the other spouse, from cohabitation with the other spouse with the intention of bringing cohabitation permanently to an end; and its grammatical variations and cognate expressions shall be construed accordingly;

(d) “diplomatic officer” means an ambassador, envoy, minister, charge d’ affairs, high commissioner, commissioner or other diplomatic representative, or a counsellor or secretary of an embassy legation or high commission;

(e) “district”, in relation to a Marriage Registrar, means the area for which he is appointed as such under this Act;

(f) “district court” means, in any area for which there is a city civil court, that court, and, in any other area, the principal civil court of original jurisdiction, and includes any other civil court which may be specified by the State Government, by notification in the Official Gazette, as having jurisdiction in respect of the matters dealt with in this Act;

(g) “India” means the territories to which this Act extends;

(h) “Licensed Minister” means a Minister of Church licensed under section 7 to solemnize marriages under this Act;

(i) “Marriage Registrar” means a Marriage Registrar appointed under section 8 or section 9;

(j) “Minister of a recognised Church” means a Minister of any Church which is a recognised Church within the meaning of this Act;

(k) “minor” means a person who has not completed the age of eighteen years;

(l) “prescribed” means prescribed by rules made under this Act;

(m) “prohibited relationship”—a man and any of the persons mentioned in Part I of the First Schedule, and a woman and any of the persons mentioned in Part II of the said Schedule, are within prohibited relationship;

*Explanation.*—“relationship” includes,—

(a) relationship by half or uterine blood as well as by full blood;

(b) illegitimate blood relationship as well as legitimate; and all terms of relationship in this Act shall be construed accordingly;

(n) "recognised Church" means—

(a) the Church of Rome, that is to say, the Church which regards the Pope of Rome as its spiritual head;

(b) the Church of India, Burma and Ceylon;

(c) the Church of Scotland as by law established;

(d) any other Church declared to be a recognised Church under section 6;

(o) "Registrar-General" Means—

6 of 1886.

(i) a Registrar-General of Births, Deaths and Marriages appointed under the Births, Deaths and Marriages Registration Act, 1886, and

(ii) in relation to any territories to which that Act does not extend, an officer performing the functions of a Registrar-General of Births, Deaths and Marriages under any corresponding law in force in those territories;

(p) "rule", in any expression denoting rules of any Church includes a rite, ceremony or custom of that Church.

## CHAPTER II

### CONDITIONS FOR CHRISTIAN MARRIAGE

43 of 1954.

3. Every marriage between persons both of whom are Christians shall be solemnized in accordance with the provisions of this Act, unless the same is solemnized under the provisions of the Special Marriage Act, 1954.

Marriage between Christians to be solemnized according to Act.

4. A marriage may be solemnized between any two Christians, if the following conditions are fulfilled, namely:—

Conditions for a Christian Marriage.

(i) neither party has a spouse living at the time of the marriage;

(ii) at the time of the marriage, neither party—

(a) is incapable of giving a valid consent to it in consequence of unsoundness of mind; or

(b) though capable of giving a valid consent, has been suffering from mental disorder of such a kind or to such an extent as to be unfit for marriage and the procreation of children; or

(c) has been subject to recurrent attacks of insanity or epilepsy;

(iii) the bridegroom has completed the age of twenty one years and the bride, the age of eighteen years, at the time of the marriage;

(iv) the parties are not within the degrees of prohibited relationship, unless the custom or usage governing each of them permits of a marriage between the two;

(v) where the marriage is solemnized outside India, both parties are domiciled in India.

### CHAPTER III

#### SOLEMNIZATION OF CHRISTIAN MARRIAGE

##### PERSONS AUTHORISED TO SOLEMNIZE MARRIAGES

Who  
may  
solem-  
nize  
mar-  
riages.

5. Marriages may be solemnized under this Act—

- (a) by any Minister of a recognized church;
- (b) by any Minister of Church licensed under section 7 to solemnize marriages;
- (c) by, or in the presence of, a Marriage Registrar appointed under section 8 or section 9.

Recogn-  
ized  
Churches.

6. (1) For the purpose of advising the Central Government as respects Churches to be declared as recognised Churches within the meaning of sub-clause (d) of clause (n) of section 2, the Central Government shall, by notification in the Official Gazette, establish a committee consisting of such number of Christians, not exceeding five, as the Central Government may think fit to appoint, and it shall be the duty of the Committee to examine applications by Churches for being declared to be recognised Churches and to make recommendations to the Central Government thereon.

(2) In making any recommendation to the Central Government under sub-section (1), the Committee shall have regard to the following, among other matters, namely:—

- (i) whether the Church is properly organised;
- (ii) whether the Church is registered under law for the time being in force relating to the registration of societies in general or religious societies in particular;
- (iii) whether the Church has well-established rules for the solemnization of marriages;
- (iv) whether the Church has proper places of worship;
- (v) whether, according to the rules of the Church, clergymen are ordinarily ordained to solemnize marriages;
- (vi) whether the strength or standing of the Church is such as to justify recognition being accorded thereto.

(3) The Central Government, after taking into consideration the recommendations made by the Committee under this section, may, by notification in the Official Gazette, declare any Church to be recognised Church for the purposes of this Act, and any such notification may also declare a group of Churches belonging to any organisation or denomination to be recognised Churches.

7. The State Government may, by notification in the Official Gazette, grant licences to Ministers of Church to solemnize marriages within the whole or any part of the State.

Grant of licences to Ministers of Church to solemnize marriages.

8. (1) The State Government may, by notification in the Official Gazette, appoint any person to be a Marriage Registrar for any district.

Marriage Registrars in India.

(2) Where there are more Marriage Registrars than one in any district, the State Government shall appoint one of them to be the Senior Marriage Registrar.

(3) Where there is only one Marriage Registrar in a district, and such Registrar is absent from the district or is ill or his office is temporarily vacant, any person authorised in this behalf by the State Government, by general or special order, shall act as, and be, the Marriage Registrar of the district during such absence, illness or temporary vacancy.

9. For the purposes of this Act in its application to Christians domiciled in India who are at present residing outside India, the Central Government may, by notification in the Official Gazette,—

Marriage Registrars outside India.

(a) in the case of the State of Jammu and Kashmir, appoint such officers of the Central Government as it may think fit to be the Marriage Registrars for the State or any part thereof; and

(b) in the case of any other country, place or area, appoint such diplomatic or consular officers as it may think fit to be the Marriage Registrars for the country, place or area.

#### B—MARRIAGES BEFORE MINISTERS OF RECOGNISED CHURCHES

10. (1) Marriages may be solemnized under this Act by any Minister of a recognized Church according to the rules of the Church of which he is a Minister and in the presence of at least two witnesses.

Solemnization of marriages by Ministers of recognised Churches.

(2) No such marriage shall be solemnized—

(a) if the Minister has reason to believe that the solemnization of the intended marriage would be contrary to the provisions of section 4; or

(b) if any other lawful impediment be shown to the satisfaction of the Minister why such marriage should not be solemnized; or

(c) unless a solemn declaration has been made before the Minister in the form specified in the Fourth Schedule—

(i) by the bridegroom, and

(ii) by the bride, or, if she is a minor for whose marriage the consent of the guardian is required under this Act, by the guardian on behalf of the bride.

## C—MARRIAGES BEFORE LICENSED MINISTERS AND MARRIAGE REGISTRARS

Notice  
of in-  
tended  
Mar-  
riage.

11. (1) When a marriage is intended to be solemnized by a licensed Minister or by or in the presence of a Marriage Registrar, the parties to the marriage shall give notice thereof in writing in the form specified in the Second Schedule—

(a) to the licensed Minister whom they desire to solemnize the marriage, or

(b) to the Marriage Registrar of the district in which at least one of the parties to the marriage has resided for a period of thirty days immediately preceding the date on which such notice is given.

(2) The licensed Minister or the Marriage Registrar, as the case may be, shall keep all notices given under sub-section (1) with the records of his office and shall also forthwith enter a true copy of every such notice in a book prescribed for that purpose, to be called the Marriage Notice Book.

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by li-  
censed  
Minister  
on re-  
ceipt of  
notice.

12. Where a notice under section 11 is given to a licensed Minister he shall proceed as follows:—

(a) if the parties intending marriage desire it to be solemnized in a particular church building and if the licensed Minister be entitled to officiate therein he shall cause the notice to be published by affixing a copy thereof to some conspicuous part of such church building.

(b) if he is not entitled to officiate as a Minister in such church building, he shall notwithstanding anything contained in sub-section (2) of section 11, at his option, either return the notice to the person who delivered it to him, or deliver it to some other licensed Minister entitled to officiate therein, who shall thereupon act as if the notice were given by the parties to him under section 11;

(c) if it is intended that the marriage shall be solemnized in a private building, the licensed Minister, on receiving the notice under section 11, shall forward a copy thereof to the Marriage Registrar of the district, who shall cause it to be published by affixing it to some conspicuous place in his own office.

Proce-  
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be fol-  
lowed  
by Mar-  
riage  
Regis-  
trars on  
receipt  
of notice.

13. Where the notice under section 11 is given to a Marriage Registrar, he shall proceed as follows:—

(a) the Marriage Registrar shall cause the notice to be published by affixing a copy thereof to some conspicuous place in his own office;

(b) if either of the parties intending marriage is not permanently residing within the local limits of the district of the Marriage Registrar, the marriage Registrar shall also cause a copy of such notice to be transmitted to the Marriage Registrar of the district within whose limit such party is permanently residing, and that Marriage Registrar shall thereupon cause a copy thereof to be affixed to some conspicuous place in his own office.



14. (1) Any licensed Minister or Marriage Registrar consenting or intending to solemnize any marriage under this Act shall, on being required so to do by or on behalf of either of the persons by whom the notice was given, issue under his hand a certificate of notice in the form specified in the Third Schedule.

Issue of certificate of notice.

(2) No such certificate shall be issued—

(a) until the expiration of seven days from the date of publication of the notice;

(b) unless a solemn declaration has been made before the licensed Minister or the Marriage Registrar, as the case may be, in the form specified in the Fourth Schedule—

(i) by the bridegroom, and

(ii) by the bride.

15. (1) Any person may, before the expiration of seven days from the date on which any notice has been published under section 12, or section 13, make an objection in writing to the marriage on the ground that it would contravene one or more of the conditions specified in section 4.

Objection to certificate.

(2) If an objection is made under sub-section (1), the licensed Minister or the Marriage Registrar shall not issue the certificate under section 14 unless he has inquired into the matter of the objection and is satisfied that it ought not to prevent the issue of the certificate or the objection is withdrawn by the person making it.

(3) The licensed Minister or the Marriage Registrar shall not take more than thirty days from the date of the objection for the purpose of inquiring into the matter of the objection and arriving at a decision.

16. (1) If the licensed Minister or the Marriage Registrar fails to arrive at a decision on an objection to an intended marriage within the period specified in sub-section (3) of section 15, or upholds such an objection and refuses to issue the certificate of notice of marriage, either party to the intended marriage may, within a period of twenty-one days from the date of such refusal, apply by petition to the district court.

Application to district court against decision on objection.

(2) The district court may examine the allegations of the petition in a summary manner, and shall decide the matter after giving a reasonable opportunity to the parties to be heard.

(3) The decision of the district court on such petition shall be final, and the licensed Minister or the Marriage Registrar shall act in conformity with the decision.

17. Where an objection is made under section 15 to a Marriage Registrar outside India in respect of an intended marriage outside India, and the Marriage Registrar, after making such inquiry into the matter as he thinks fit, entertains a doubt in respect thereof, he shall not solemnize the marriage but shall transmit the record in the Central Government with such statement respecting the matter as he thinks fit to make, and the Central Government after making such inquiry into the matter and after obtaining such advice as it thinks fit, shall give its decision

Procedure on receipt of objection by Marriage Registrar abroad.

thereon in writing to the Marriage Registrar, who shall act in conformity with the decision of the Central Government.

Certificate not to be issued and marriage not to be solemnized in certain cases.

18. No licensed Minister or Marriage Registrar shall issue a certificate of notice in respect of any marriage or solemnize any marriage under this Act—

(a) if he has reason to believe that the solemnization of the intended marriage would be contrary to the provisions of section 4; or

(b) if any other lawful impediment be shown to his satisfaction why such certificate should not be issued or such marriage should not be solemnized.

Solemnization of marriage by licensed Minister.

19. After the issue of the certificate of notice by the licensed Minister, the marriage may be solemnized between the persons therein described by the licensed Minister according to such form or ceremony as obtains in the Church to which the licensed Minister belongs and in the presence of at least two witnesses.

Solemnization of marriage by Marriage Registrar.

20. (1) After the issue of the certificate of notice by the Marriage Registrar, the marriage may be solemnized between the persons therein described by or in the presence of the Marriage Registrar according to such form or ceremony as the parties think fit to adopt and in the presence of at least two witnesses:

Provided that the marriage shall not be complete and binding on the parties unless each party says to the other in the presence of the Marriage Registrar and the witnesses and in any language understood by the parties—

“I, (A.B.) take thee (C.D.) to be my lawful wife (or husband)”,

(2) The marriage may be solemnized—

(a) at the office of the Marriage Registrar; or

(b) at such other place in his district and within a reasonable distance from his office, as the parties may desire, and upon such conditions and the payment of such additional fees as may be prescribed.

Certificate void if marriage not solemnized within three months.

21. If a marriage is not solemnized within three months after the date of the certificate issued by the licensed Minister or the Marriage Registrar under section 14, such certificate and all proceedings if any, thereon shall be void, and no person shall proceed to solemnize the said marriage until a new notice has been given and the certificate thereof issued in the manner provided in this Chapter.



## D—REGISTRATION OF MARRIAGES

22. (1) When the marriage has been solemnized, the Minister of a recognised Church or the licensed Minister or the Marriage Registrar, as the case may be, shall enter a certificate thereof in the form specified in the Fifth Schedule in a book to be kept by him for that purpose and to be called the Marriage Certificate Book, and such certificate book, and such certificate shall be signed by the parties to the marriage and the witnesses.

Certifi-  
cate of  
marriage  
and  
registra-  
tion.

(2) On a certificate being entered in the Marriage Certificate Book by the Minister of a recognised Church or the licensed Minister or the Marriage Registrar, the certificate shall be deemed to be conclusive evidence of the fact that a marriage under this Act has been solemnized.

(3) Every Minister of a recognised Church, licensed Minister or Marriage Registrar in a State shall send to the Registrar-General of that State, at such intervals and in such form as may be prescribed, a true copy of all entries made by him in the Marriage Certificate Book since the last of such intervals.

## CHAPTER IV

## RESTITUTION OF CONJUGAL RIGHTS

23. (1) When either the husband or the wife has, without reasonable excuse, withdrawal from the society of the other, the other party may apply by petition to the district court for restitution of conjugal rights.

Petition  
for res-  
titution  
of Con-  
jugal  
rights.

(2) Nothing shall be pleaded in answer to such petition which would not be a ground for judicial separation or for nullity of marriage or for divorce.

(3) The court, on being satisfied of the truth of the statements made in such petition, and that there is no legal ground why a decree of restitution of conjugal rights should not be granted, may decree restitution of conjugal rights accordingly.

## CHAPTER V

## JUDICIAL SEPARATION

24. Either party to a marriage, whether solemnized before or after the commencement of this Act, may present a petition praying for a decree for judicial separation on any of the grounds specified in section 29.

Judicial  
separa-  
tion.

25. (1) Where a decree for judicial separation has been passed, it shall no longer be obligatory for the petitioner to cohabit with the respondent.

Effect of  
Judicial  
separa-  
tion on  
duty to  
cohabit.

(2) The court may, on the application by petition of either party and on being satisfied of the truth of the statements made in such petition rescind the decree where the parties have expressed a desire to come together and to resume cohabitation or where for any other reason the court considers it just and reasonable to rescind the decree.

## CHAPTER VI

## NULLITY OF MARRIAGE

Void  
mar-  
riages.

26. Any marriage solemnized, whether before or after the commencement of this Act, shall be null and void and may on a petition presented for the purpose, be so declared by a decree of nullity, if it contravenes the condition specified in clause (i) or clause (iv) of section 4.

Voidable  
mar-  
riages.

27. (1) Any marriage solemnized, whether before or after the commencement of this Act, shall be voidable and may be annulled by a decree of nullity on any of the following grounds, namely:—

(a) that the marriage has not been consummated owing to the impotence of the respondent; or

(b) that the marriage is in contravention of the conditions specified in clause (ii) of section 4; or

(c) that the consent of the petitioner, or where the consent of the guardian in marriage of the petitioner was required under section 19 of the Indian Christian Marriage Act, 1872, as it stood immediately before the commencement of the Child Marriage Restraint (Amendment) Act, 1978, the consent of such guardian was obtained by force or by fraud as to the nature of the ceremony or as to any material fact or circumstance concerning the respondent; or

15 of  
1872.

2 of  
1978.

(d) that the respondent was at the time of the marriage pregnant by some person other than the petitioner.

(2) Notwithstanding anything contained in sub-section (1), no petition for annulling a marriage—

(a) on the ground specified in clause (c) of sub-section (1) shall be entertained if—

(i) the petition is presented more than one year after the force had ceased to operate or, as the case may be, the fraud had been discovered; or

(ii) the petitioner has, with his or her full consent, lived with the other party to the marriage as husband or wife after the force had ceased to operate or, as the case may be, the fraud had been discovered;

(b) on the ground specified in clause (d) of sub-section (1) shall be entertained unless the court is satisfied—

(i) that the petitioner was at the time of the marriage ignorant of the facts alleged;

(ii) that proceedings have been instituted in the case of a marriage solemnized before the commencement of this Act within one year of such commencement and in the case of marriages solemnized after such commencement within one year from the date of the marriage; and

(iii) that marital intercourse with the consent of the petitioner has not taken place since the discovery by the petitioner of the existence of the said ground.

28. (1) Where a marriage is null and void under section 26 by reason of the contravention of the conditions specified in clause (i) or clause (iv) of section. 4, any child begotten or conceived before the marriage is declared to be null and void, who would have been the legitimate child of the parties to the marriage if the marriage had been valid, shall be deemed to be their legitimate child notwithstanding that the marriage is null and void.

Legitimacy of children of certain void and voidable marriages.

(2) Where a marriage is annulled by a decree of nullity under section 27, any child, begotten or conceived before the decree is made, who would have been the legitimate child of the parties to the marriage if the marriage had been dissolved instead of having been annulled by a decree of nullity, shall be deemed to be their legitimate child notwithstanding the decree of nullity.

(3) Nothing contained in this section shall be construed as conferring upon any child of a marriage which is void or which is annulled by a decree of nullity any rights in or to the property of any person other than the parents in any case where, but for the passing of this Act, such child would have been incapable of possessing or acquiring any such rights by reason of his not being the legitimate child of his parents.

## CHAPTER VII

### GROUND OF DIVORCE

29. (1) Any marriage solemnized, whether before or after the commencement of this Act, may, on a petition presented by either the husband or the wife, be dissolved by a decree on the ground that the other party—

Grounds of divorce.

(i) has, after the solemnization of the marriage, had voluntary sexual intercourse with any person other than his or her spouse; or

(ii) has after the solemnization of the marriage, treated the petitioner with cruelty; or

(iii) has deserted the petitioner for a continuous period of not less than two years immediately preceding the presentation of the petition; or

(iv) has ceased to be a Christian by conversion to another religion; or

(v) has been incurably of unsound mind, or has been suffering continuously or intermittently from mental disorder of such a kind and to such an extent that the petitioner cannot reasonably be expected to live with the respondent;

*Explanation:—In this clause—*

(a) the expression "mental disorder" means illness, arrested or incomplete development of mind, psychopathic disorder or any other disorder or disability of mind and includes schizophrenia;

(b) the expression "psychopathic disorder" means a persistent disorder or disability of mind (whether or not including subnormality of intelligence) which results in a normally aggressive or seriously irresponsible conduct on the part of the other party and whether or not it requires or is susceptible to medical treatment; or

(vi) has been suffering from a virulent and incurable form of leprosy; or

(vii) has been suffering from venereal disease in a communicable form; or

(viii) has renounced the world by entering any religious order; or

(ix) has not been heard of as being alive for a period of seven years or more by those persons who would naturally have heard of it, had that party been alive.

*Explanation:—*In this sub-section the expression “desertion” means the desertion of the petitioner by the other party to the marriage without reasonable cause and without the consent or against the wish of such party, and includes the wilful neglect of the petitioner by the other party to the marriage and its grammatical variations and cognate expressions shall be construed accordingly.

(2) Either party to a marriage, whether solemnized before or after the commencement of this Act, may also petition for the dissolution of the marriage by a decree of divorce on the ground—

(i) that there has been no resumption of cohabitation as between the parties to the marriage for a period of one year or upwards after the passing of a decree for judicial separation in a proceeding to which they were parties; or

(ii) that there has been no restitution of conjugal rights as between the parties to the marriage for a period of one year or upwards after the passing of a decree for restitution of conjugal rights in a proceeding to which they were parties; or

(iii) that in a proceeding under section 125 of the Code of Criminal Procedure, 1973 (or under the corresponding section 488 of the Code of Criminal Procedure, 1898) a decree or order, as the case may be, has been passed against the husband awarding maintenance to the wife notwithstanding that she was living apart and that since the passing of such decree or order, cohabitation between the parties has not been resumed for one year or upwards; or

(iv) that her marriage, whether consummated or not, was solemnized before she attained the age of fifteen years and she has repudiated the marriage after attaining that age but before attaining the age of eighteen years.

*Explanation:—*The provisions of this clause shall apply whether the marriage was solemnized before or after the commencement of this Act.

Alter-  
nate  
relief  
in  
divorce  
proceed-  
ings.

30. In any proceeding under this Act for dissolution of marriage by a decree of divorce, except in so far as the petition is found on the grounds mentioned in clauses (iv), (viii) and (ix) of sub-section (1) of section 29, the court may, if it considers it just so to do having regard to the circumstances of the case, pass instead a decree for judicial separation.

2 of  
1974.

31. Where in respect of any marriage solemnized whether before or after the commencement of this Act, a decree for judicial separation has been passed, and there has been no resumption of cohabitation as between the parties to the marriage for a period of two years or upwards after the passing of the decree, either party may, by an application in the court which passed the decree, pray for the dissolution of the marriage by a decree of divorce; and the court may, on being satisfied of the truth of the statements made in such application, pass a decree accordingly.

Divorce after decree for judicial separation.

32. (1) Notwithstanding anything contained in this Act, it shall not be competent for any court to entertain any petition for dissolution of a marriage by a decree of divorce under section 30, unless on the date of the presentation of the petition three years have lapsed since the date of the marriage:

No Petition for divorce to be presented within three years of marriage.

Provided that the court may grant leave to present a petition before the said three years have elapsed if the court thinks fit to do so on the ground that the case is one of exceptional hardship to the petitioner or of exceptional depravity on the part of the respondent; but any such leave may, in the interests of justice, be revoked by the court at any time before a decree *nisi* of divorce is passed, and where the leave is so revoked, the court may dismiss the petition without prejudice to any petition which may be brought after the expiration of the said three years upon the same or substantially the same facts as those alleged in support of the petition so dismissed.

(2) In disposing of any application under this section for leave to present a petition for divorce before the expiration of three years from the date of the marriage the court shall have regard to the interests of any children born out of the marriage and to the question whether there is a reasonable probability of a reconciliation between the parties before the expiration of the said three years.

#### DIVORCE BY MUTUAL CONSENT

33. (1) Subject to the provisions of this Act a petition for dissolution of marriage by a decree of divorce may be presented to the District Court by both the parties to a marriage together, whether such marriage was solemnized before or after the commencement of this Act, on the ground that they have been living separately for a period of one year or more, that they have not been able to live together, and that they have mutually agreed that the marriage should be dissolved.

Divorce by mutual consent.

(2) On an application of both the parties made not earlier than six months after the date of presentation of the petition referred to in sub-section (1) and not later than eighteen months after the said date, if the petition is not withdrawn in the meantime, the Court shall, on being satisfied, after hearing the parties and after making such inquiry as it thinks fit, that a marriage has been solemnized and that the averments in the petition are true, pass a decree of divorce declaring the marriage to be dissolved with effect from the date of the decree.



## REMARRIAGE AFTER DIVORCE

Re-mar-  
riage of  
divorced  
persons.

34. Where a decree of divorce has been made absolute under section 43 or a decree of divorce has been passed under section 31, and the time for appealing has expired without any appeal having been presented or an appeal has been presented but has been dismissed and the degree of dismissal has become final, but not sooner, either party to the marriage may marry again.

## CHAPTER VIII

## JURISDICTION AND PROCEDURE

Relief  
to be  
given to  
Chris-  
tians  
only.

35. Nothing contained in this Act shall authorise any court to grant any relief under chapters IV to VII, except where—

(a) both the parties to the marriage are Christians at the time of the presentation of the petition; or

(b) both the parties to the marriage were Christians at the time of the marriage, and at least one of the parties is a Christian at the time of the presentation of the petition; or

(c) the marriage was solemnized under any enactment repealed hereby, and at least one of the parties is a Christian at the time of the presentation of the petition.

Jurisdic-  
tion of  
Indian  
Courts.

36. Nothing contained in this Act shall authorise any court—

(a) to make any decree of dissolution of marriage, except where—

(i) the parties to the marriage are domiciled in India at the time of the presentation of the petition; or

(ii) the petitioner, being the wife, was domiciled in India immediately before marriage and has been residing in India for a period of not less than three years immediately preceding the presentation of the petition;

(b) to make any decree of nullity of marriage, except where—

(i) the parties to the marriage are domiciled in India at the time of the presentation of the petition; or

(ii) the marriage was solemnized under this Act or under any enactment repealed hereby, and the petitioner is either domiciled or residing in India at the time of the presentation of the petition;

(c) to grant any other relief under Chapters IV to VII, except where the petitioner is residing in India at the time of the presentation of the petition.

Court to  
which  
petition  
to be  
made.

37. (1) Every petition under section 16 shall be presented to the district court within the local limits of whose ordinary original civil jurisdiction the licensed Minister discharges his functions or the office of the Marriage Registrar is situate, as the case may be.

(2) Every petition under Chapters IV to VII shall be presented to the district court within the local limits of whose ordinary original civil jurisdiction—

(a) the respondent is residing at the time of the presentation of the petition; or

(b) the marriage was solemnized; or

(c) the husband and wife last resided together; or

(d) the petitioner is residing at the time of the presentation of the petition, provided the respondent is, at that time, residing outside India.

38. (1) Every petition presented under Chapters IV to VII shall state as distinctly as the nature of the case permits the facts on which the claim to relief is founded and shall also state that there is no collusion between the petitioner and the other party to the marriage.

Contents and verification of petitions.

(2) The statements contained in every petition under Chapters IV to VII shall be verified by the petitioner or some other competent person in the manner required by law for the verification of plaints and may, at the hearing, be referred to as evidence.

39. Subject to the other provisions contained in this Act and to such rules as the High Court may make in this behalf, all proceedings under this Act shall be regulated, as far as may be, by the Code of Civil Procedure, 1908.

5 of 1908.

Application of Code of Civil Procedure.

40. (1) In any proceeding under Chapters IV to VII, whether defended or not, if the court is satisfied that—

Duty of court before passing decree.

(a) any of the grounds for granting relief exists and the petitioner is not in any way taking advantage of his or her own wrong or disability for the purpose of such relief; and

(b) where the ground of the petition is adultery, the petitioner has not in any manner been accessory to or connived at or condoned the adultery, or where the ground of the petition is cruelty, the petitioner has not in any manner condoned the cruelty; and

(c) the petition is not presented or prosecuted in collusion with the respondent; and

(d) there has not been any unnecessary or improper delay in instituting the proceeding; and

(e) there is no other legal ground why relief should not be granted;

then, and in such a case, but not otherwise, the court shall decree such relief accordingly.

(2) Before proceeding to grant any relief under Chapters IV to VII, it shall be the duty of the court in the first instance, in every case where it is possible so to do consistently with the nature and circumstances of the case, to make every endeavour to bring about a reconciliation between the parties.

(3) For the purpose of aiding the court in bringing about such reconciliation, the court may, if the parties so desire or if it thinks it just and proper so to do, adjourn the proceeding and refer the matter to any person named by the parties in this behalf or to any person nominated by the court if the parties fail to name any person, with directions to report to the court as to whether a reconciliation can be, and has been, effected, and shall, in disposing of the proceeding, have due regard to the report.

Adulter-  
er or  
adulter-  
ess to be  
a co-res-  
pondent.

41. (1) On a petition for divorce or judicial separation presented on the ground of adultery the petitioner shall make the alleged adulter or adulteress a co-respondent, unless the petitioner is excused by the court from so doing on any of the following grounds namely:—

(a) that the respondent is leading the life of a prostitute, and that the petitioner knows of no person with whom the adultery has been committed;

(b) that the name of the alleged adulter or adulteress is unknown to the petitioner although the petitioner has made due efforts to discover it;

(c) that the alleged adulter or adulteress is dead;

(d) any other ground which the court may regard as sufficient in the circumstances of the case.

(2) The provision of sub-section (1) shall, so far as may be, apply in relation to the answer of a respondent praying for divorce or judicial separation on the ground of adultery, as they apply in relation to a petition for divorce or judicial separation presented on that ground.

Relief to  
respon-  
dent in  
case of  
opposi-  
tion to  
petition  
for di-  
vorce on  
certain  
grounds.

42. If in any proceeding for divorce or judicial separation, the respondent opposes the relief sought on the ground of the petitioner's adultery, cruelty or desertion, the court may give the respondent the same relief to which he or she would have been entitled if he or she had presented a petition seeking such relief.

Decree  
*nisi*  
for  
divorce.

43. (1) Every decree for divorce under section 29 shall, in the first instance, be a decree *nisi*, not to be made absolute until after the expiration of six months from the pronouncing thereof, unless the court fixes a shorter time.

(2) After the pronouncing of the decree *nisi* and before the decree is made absolute, any person may, by an application made in accordance with such rules as may be made by the High Court in that behalf, show cause why the decree *nisi* should not be made absolute by reason of the decree having been obtained by collusion or by reason of material facts not having been brought before the court, and in any such case the court may make the decree absolute, reverse the decree *nisi*, require further inquiry or otherwise deal with the case as the court thinks fit.

(3) Where a decree *nisi* has been obtained and no application for the decree to be made absolute has been made within six months from the



pronouncement of the decree *nisi* by the party who obtained the decree, then at any time within three months from the expiration of the said six months, the party against whom the decree *nisi* has been granted shall be at liberty to apply to the court and the court, on such application, may make the decree absolute, reverse the decree *nisi*, require further inquiry or otherwise deal with the case as the court thinks fit.

44. (1) A husband or wife may, on a petition for divorce or for judicial separation, claim damages from any person on the ground of adultery with the wife or husband of the petitioner.

Damages from adulterer or adulteress.

(2) The court may direct in what manner the damages recovered on any such petition are to be paid or applied, and may direct the whole or any part of the damages to be settled for the benefit of the children, if any, of the marriage, or as a provision for the maintenance of the wife, or husband.

45. Where in any proceeding under Chapters IV to VII it appears to the court that either the wife or the husband, as the case may be, has no independent income sufficient for her or his support and the necessary expenses of the proceeding, it may, on the application of the wife or the husband, order the respondent to pay to the petitioner the expenses of the proceedings, and monthly, during the proceedings such sum, as, having regard to the petitioner's own income and the income of the respondent, may seem to the court to be reasonable.

Maintenance pendente lite and expenses of proceedings.

46. (1) Any court exercising jurisdiction under Chapters IV to VII may, at the time of passing any decree or at any time subsequent thereto, on application made to it for the purpose by either the wife or the husband, as the case be, order that the respondent shall, while the applicant remains unmarried, pay to the applicant for her or his maintenance and support such gross sum or such monthly or periodical sum for a term not exceeding the life of the applicant as, having regard to the respondent's own income and other property, if any, the income and other property of the applicant and the conduct of the parties, may seem to the court to be just, and any such payment may be secured, if necessary, by a charge on the immovable property of the respondent.

Permanent alimony and maintenance.

(2) If the court is satisfied that there is a change in the circumstances of either party at any time after it has made an order under sub-section (1), it may, at the instance of either party, vary, modify or rescind any such order in such manner as the court may deem just.

(3) If the court is satisfied that the party in whose favour an order has been made under this section has remarried, or, if such party is the wife, that she has not remained chaste, or, if such party is the husband, that he has had sexual intercourse with any woman outside wedlock, it shall rescind the order.

47. (1) In any proceeding under Chapter VI or Chapter VII the court may make such provisions in the decree as it deems just and proper with respect to any property presented, at or about the time of the marriage, which may belong jointly to both the husband and the wife.

Disposal of property.

(2) In any case in which the court pronounces a decree for divorce or nullity of marriage, the court may inquire into the existence of antenuptial or postnuptial settlements made on the parties whose marriage

is the subject of the decree, and may make such orders, with reference to the application of the whole or any part of the property so settled (whether the settlement is for the benefit of the children of the marriage or of the parties to the marriage or both), as the court thinks fit.

(3) The court shall not make any order under sub-section (2) for the benefit of the parents or either of them at the expense of the children.

Custody  
of chil-  
dren.

48. In any proceeding under Chapters IV to VII, the court may from time to time, pass such interim orders and make such provisions in the decree as it may deem just and proper with respect to the custody, maintenance and education of minor children, consistently with their wishes, wherever possible, and may, after the decree, upon application by petition for the purpose, make, from time to time, all such orders and provisions with respect to the custody, maintenance and education of such children as might have been made by such decree or interim orders in case the proceeding for obtaining such decree were still pending, and the court may also from time to time revoke, suspend or vary any such orders and provisions previously made.

Proceed-  
ings may  
be in  
camera  
and may  
not be  
pub-  
lished.

49. A proceeding under this Act shall be conducted in camera if either party so desires or if the court so thinks fit to do, and it shall not be lawful for any person to print or publish any matter in relation to such proceeding except with the previous permission of the court.

Appeals  
from  
decrees  
and  
orders.

50. All decrees and orders made by the court in any proceeding under this Act shall be appealable as decrees of the court made in the exercise of its original civil jurisdiction and such appeal shall lie to the court to which appeals ordinarily lie from the decisions of the court given in the exercise of its original civil jurisdiction:

Provided that there shall be no appeal on the subject of costs only.

Enforce-  
ment of  
decrees  
and  
orders.

51. All decrees and orders made by the court in any proceedings under this Act shall be enforced in the like manner as the decrees and orders of the court made in the exercise of its original civil jurisdiction for the time being are enforced.

## CHAPTER IX

### PENALTIES

Punish-  
ment for  
bigamy.

52. Every person whose marriage is solemnized under this Act and who, during the lifetime of his or her wife or husband, contracts any other marriage shall be subject to the penalties provided in section 494 and section 495 of the Indian Penal Code for the offence of marrying again during the lifetime of the husband or wife, and the marriage so contracted shall be void.

53. Every person who procures a marriage of himself or herself to be solemnized under this Act in contravention of the conditions specified in clauses (iii) and (iv) of section 4 shall be punishable—

Punish-  
ment for  
contra-  
vention  
of certain  
other  
conditions  
for mar-  
riage.

(a) in the case of a contravention of the condition specified in clause (iii) of section 4, with simple imprisonment which may extend to fifteen days, or with fine which may extend to one thousand rupees, or with both, and

(b) in the case of a contravention of the condition specified in clause (iv) of section 4, with simple imprisonment which may extend to one month, or with fine which may extend to one thousand rupees, or with both.

54. Whoever, for the purpose of procuring a marriage or licence of marriage, intentionally—

Penalty  
for false  
oath, dec-  
laration,  
notice or  
certifi-  
cate for  
procur-  
ing mar-  
riage.

(a) where an oath or declaration is required by this Act, or by any Church according to the rules of which a marriage is intended to be solemnized, makes a false oath or declaration, or

(b) where a notice or certificate is required by this Act, signs a false notice or certificate, shall be punishable with imprisonment for a term which may extend to three years and shall also be liable to fine.

55. Whoever, not being authorised by section 5 to solemnize marriages, solemnizes or professes to solemnize under this Act a marriage between persons who are Christians, shall be punishable with imprisonment for a term which may extend to ten years, and shall also be liable to fine which may extend to two thousand rupees.

Solem-  
nizing  
marriage  
without  
due au-  
thority.

56. (1) Whoever, being a licensed Minister or a Marriage Registrar, in contravention of the provisions of sub-section (3) of section 15, wilfully or without just cause takes more than thirty days from the date of any objection to an intended marriage for the purpose of inquiring into the matter of the objection and arriving at a decision, shall be punishable with fine which may extend to five hundred rupees.

Penalty  
for not  
deciding  
objec-  
tions  
within  
pres-  
cribed  
period or  
refusal to  
solem-  
nize mar-  
riage.

(2) Whoever, being a licensed Minister or a Marriage Registrar, refuses, without just cause, to solemnize a marriage under this Act, shall be punishable with simple imprisonment for a term which may extend to one year, or with fine which may extend to five hundred rupees, or with both.

57. Whoever, being authorised under this Act to solemnize a marriage, knowingly and wilfully—

Penalty  
for  
wrongful  
action of  
Marriage  
Regis-  
trar or  
Licensed  
Min-  
ister, etc.

(a) solemnizes such marriage—

(i) without publishing a notice regarding such marriage as required by any provision of this Act; or

(ii) in contravention of any other provision contained in this Act; or

(b) issues any certificate in contravention of any provision contained in this Act,

shall be punishable with simple imprisonment for a term which may extend to one year, or with fine which may extend to five hundred rupees, or with both.

Destroy-  
ing or  
falsify-  
ing Mar-  
riage  
Certifi-  
cate  
Books.

58. Whoever, by himself or through another, wilfully destroys or injures any Marriage Certificate Book, or any part thereof or any authenticated extract therefrom, or falsely makes or counterfeits any part of such book, or wilfully inserts any false entry in any such book or authenticated extract, shall be punishable with imprisonment for a term which may extend to seven years and shall also be liable to fine which may extend to two thousand rupees.

Penalty  
for pub-  
lishing  
proceed-  
ings held  
in Ca-  
mera.

59. Any person who prints or publishes any matter in contraven-  
tion of the provisions contained in section 49 shall be punishable with  
fine which may extend to one thousand rupees.

Limita-  
tion for  
prose-  
cution.

60. No prosecution for any offence punishable under section 53,  
section 54, section 55, section 56, section 57, section 58 or section 59, shall  
be instituted after the expiry of two years from the date on which  
the offence is committed.

## CHAPTER X

### MISCELLANEOUS

Liability  
for fri-  
volous  
objec-  
tions.

61. (1) Where any person makes an objection against the issue of  
any certificate of notice of marriage and the Marriage Registrar under  
section 15, or the district court under section 16, declares that the ob-  
jection is not reasonable and has not been made in good faith, the  
Marriage Registrar or the district court, as the case may be, may, after  
giving such person a reasonable opportunity of being heard, award, by  
way of compensation, costs, not exceeding one thousand rupees, to the  
parties to the intended marriage.

(2) Any person aggrieved by an order of the Marriage Registrar  
or the district court under sub-section (1) may, within a period of thirty  
days from the date of the order, appeal to the district court or the High  
Court, as the case may be.

(3) Subject to any order passed on appeal under sub-section (2),  
the order of the Marriage Registrar or the district court under sub-  
section (1) shall be final.

(4) Any order of costs made under sub-section (1) may be executed  
in the same manner as a decree passed by the district court within the  
local limits of whose jurisdiction the office of the Marriage Registrar  
is situate.

Savings  
regard-  
ing ir-  
regulari-  
ties.

62. Whenever any marriage has been solemnized between two  
Christians under this Act in accordance with the provisions of this  
Act, it shall not be void merely on account of any irregularity in res-  
pect of any of the following matters, namely:—

(i) any statement made in regard to the dwelling place of the  
persons married;

- (ii) the notice of the marriage;
- (iii) the certificate of the notice of the marriage or translation thereof;
- (iv) the registration of the marriage.

63. (1) Any person authorised to solemnize a marriage under this Act, who discovers any error in the form or substance of any entry in the Marriage Certificate Book may, within one month next after the discovery of such error, in the presence of the persons married, or, in case of their death or absence, in the presence of two other witnesses, correct the error by entry in the margin, without any alteration of the original entry and shall sign the marginal entry and add thereto the date of such correction.

Correc-  
tion of  
errors.

(2) Every correction made under this section shall be attested by the witnesses in whose presence it was made.

(3) Where a copy of any entry has already been sent under subsection (3) of section 22 to the Registrar-General, such person shall make and send in like manner a separate certificate of the original erroneous entry and of the marginal corrections therein made.

64. Subject to the other provisions contained in this Act, a marriage under this Act may be solemnized by a Minister of a recognised Church or a licensed Minister—

(a) in a church building, or

(b) in any other place agreed upon between the parties to the marriage, if solemnization at such place is in accordance with the custom or usage applicable to the community to which the parties to the marriage belong.

Solemnization of marriages by Ministers of Church in places sanctioned by custom or usage.

65. Every Marriage Registrar shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code.

Marriage Registrars to be deemed to be public servants.

66. The Marriage Notice Book shall be open for inspection at all reasonable times, without fee, by any person desirous of inspecting the same.

Inspection of Marriage Notice Book.

67. (1) The Marriage Certificate Book kept under this Act shall at all reasonable times be open for inspection and shall be admissible as evidence of the statements therein contained.

Inspection of Marriage Certificate Book.

(2) Certified extracts from the Marriage Certificate Book shall, on application, be given by the person who solemnized the marriage or other person having the custody for the time being of the Marriage Certificate Book, to any person who applies for the same.

(3) Inspection of the Marriage Certificate Book under sub-section (1) and the grant of certified extracts therefrom under sub-section (2) shall be—

(a) without fee, if applied for by the parties to the marriage at or about the time of the marriage.

(b) subject to the payment of the prescribed fees, in other cases.

Certified  
copy to  
be re-  
ceived in  
evidence.

68. Every certified copy, purporting to be signed by the person entrusted under this Act with the custody of any Marriage Certificate Book, or an entry of a marriage in such Book, shall be received in evidence without production or proof of the original.

Langu-  
age of  
notices  
and  
declara-  
tions.

69. (1) Any notice to be given or declaration to be made by any person in respect of an intended marriage under this Act may be given or made in a language commonly in use in the State or the part of State in which the notice is given or declaration made; or in English.

(2) Every person solemnizing a marriage under this Act shall satisfy himself that the parties to the marriage have understood the contents of the notice given and the declaration made by each of them, and (where a certificate of notice of marriage is required to be issued under this Act) of the certificate of notice of marriage issued for the marriage.

Ministers  
of recog-  
nised  
Church.  
es not  
compel-  
led to  
solem-  
nize mar-  
riages  
contrary  
to the  
rules  
of the  
Church.

70. No Minister of a recognised Church shall be compelled to solemnize any marriage, the solemnization of which would be contrary to the rules of the Church of which he is a Minister.

Powers  
of mar-  
riage  
Regis-  
trars  
in res-  
pect of  
inquiries.

71. For the purpose of any inquiry under this Act, the Marriage Registrar shall have all the powers vested in a civil court under the Code of Civil Procedure, 1908, when trying a suit in respect of the following matters, namely:—

5 of 1908.

(a) summoning and enforcing the attendance of witnesses and examining them on oath;

(b) discovery and inspection;

(c) compelling the production of documents;

(d) reception of evidence on affidavits; and

(e) issuing commissions for the examination of witnesses;

and any proceeding before the Marriage Registrar shall be deemed to be a judicial proceeding within the meaning of section 193 of the Indian Penal Code.

45 of 1860.



*Explanation:* For the purpose of enforcing the attendance of any person to give evidence, the local limits of the jurisdiction of the Marriage Registrar shall be the local limits of his district.

72. (1) The Central Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

Power  
to make  
rules.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

(a) the duties and powers of Marriage Registrars and the areas in which they may exercise jurisdiction;

(b) the manner in which a Marriage Registrar may hold inquiries under this Act, and the procedure therefor;

(c) the form and manner in which any books required by or under this Act shall be maintained;

(d) the fees that may be levied for the performance of any duty imposed upon any person under this Act;

(e) the conditions under which licences to solemnize marriages may be issued by the State Government, and the circumstances under which they may be revoked;

(f) the surrender of such licences on the expiry thereof by revocation or otherwise;

(g) the procedure to be followed by the Committee constituted under section 6;

(h) the form in which and the intervals within which, copies of entries in the Marriage Certificate Books shall be sent to the Registrar-General;

(i) any other matter which may be, or requires to be, prescribed.

(3) Every rule made under this section shall be laid, as soon as may be after it is made, before each House of Parliament while it is in session for a total period of thirty days, which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session in which it is so laid or the session immediately following, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall there-after have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

73. The High Court may, by notification in the Official Gazette, make such rules consistent with the provisions contained in this Act as it may consider expedient for the purpose of regulating the procedure to be followed in petitions under section 16, and for the purpose of carrying into effect the provisions of Chapter IV to VII.

Rules  
by the  
High  
Court.

Savings  
regard-  
ing marri-  
ages  
solem-  
nized  
before  
the Act.

74. A marriage solemnized before the commencement of this Act, which is otherwise valid, shall not be deemed to be invalid merely by reason of any provision contained in this Act.

Savings  
for  
other  
marri-  
ages.

75. Nothing in this Act shall affect the provisions of the Special Marriage Act, 1954, or apply to any marriage solemnized under that Act.

43 of 1954.

Repeal.

76. (1) The Indian Divorce Act, 1869, the Indian Christian Marriage Act, 1872, the Indian and Colonial Divorce Jurisdiction Act, 1926, the Indian and Colonial Divorce Jurisdiction Act, 1940, the Indian Divorce Act, 1945, and any enactment corresponding to the Indian Christian Marriage Act, 1872, in force in the territories which, immediately before the first day of November, 1956, were comprised in the States of Travancore-Cochin and Manipur, are hereby repealed.

4 of 1869.  
15 of 1872.  
16 and 17  
Geo. 5, C.  
40.  
3 and 4  
Geo. 6, C.  
35.  
9 and 10  
Geo. 6,  
C. 5.

(2) Notwithstanding such repeal—

(a) all marriages duly solemnized under the Indian Christian Marriage Act, 1872, or any such corresponding enactment, shall be deemed to have been solemnized under this Act;

15 of 1872.

(b) all suits and proceedings in causes and matters matrimonial which when this Act comes into force, are pending in any court under the Indian Divorce Act, 1869, or under the Indian and Colonial Divorce Jurisdiction Act, 1926, or under the Indian and Colonial Divorce Jurisdiction Act, 1940, or under the Indian Christian Marriage Act, 1872, or any such corresponding enactment, shall be dealt with and decided by such court as if this Act had not been passed.

4 of 1869.  
16 and 17  
Geo. 5, C.  
40.  
3 and 4  
Geo. 6,  
C. 35.  
15 of 1872.

(3) The provisions of sub-section (2) shall be without prejudice to the provisions contained in section 6 of the General Clauses Act, 1897, which shall also apply to the repeal of the Indian and Colonial Divorce Jurisdiction Act, 1926, the Indian and Colonial Divorce Jurisdiction Act, 1940, the Indian Divorce Act, 1945, and any such corresponding enactment.

10 of 1897.  
16 and 17  
Geo. 5, C.  
40.  
3 and 4  
Geo. 6, C.  
35.  
9 and 10  
Geo. 6.  
C.S.

## THE FIRST SCHEDULE

[See Section 2(m)]

### Prohibited Relationship

#### PART I

1. Mother
2. Father's widow (step-mother)
3. Mother's mother
4. Mother's father's widow (step-grand-mother)
5. Father's mother.
6. Father's father's widow (step grand-mother).



7. Daughter.
8. Son's widow
9. Daughter's daughter
10. Daughter's son's widow
11. Son's daughter.
12. Son's son's widow.
13. Sister.
14. Wife's daughter (step-daughter).
15. Wife's mother.
16. Wife's son's daughter (step-son's daughter).
17. Wife's daughter's daughter (step-daughter's daughter)
18. Wife's father's mother.
19. Wife's mother's mother.

*Explanation*—For the purposes of this Part, the expression “widow” includes a divorced wife.

## PART II

20. Father.
21. Mother's husband (step-father).
22. Father's father.
23. Father's mother's husband (step grand-father).
24. Mother's father.
25. Mother's mother's husband (step grand-father).
26. Son.
27. Daughter's husband.
28. Son's son.
29. Son's daughter's husband.
30. Daughter's son.
31. Daughter's daughter's husband
32. Brother.
33. Husband's father.
34. Husband's son (step-son).
35. Husband's son's son (step-son's son).
36. Husband's daughter's son (step-daughter's son).
37. Husband's father's father.
38. Husband's mother's father.

*Explanation*—For the purposes of this Part, the expression “husband” includes a divorced husband.

## THE SECOND SCHEDULE

[See section 11 (1)]

## Form of Notice of intended Marriage

To

The (Licensed Minister) \*

(Marriage Registrar) \* for.....

We hereby give you notice that a marriage under the Christian Marriage and Matrimonial Causes Act, 1989, is intended to be solemnized between us within three calendar months from the date hereof.

Name	Condition	Occupation	Date of birth	Dwelling place	Permanent dwelling place, if present dwelling place not permanent.	Length of residence.	Church, chapel or place of worship in which marriage is to be solemnized (if the marriage is to be so solemnized).
------	-----------	------------	---------------	----------------	--	----------------------	--

A.B. Unmarried

Widower

Divorcee

C.D. Unmarried

Widow

Divorcee

Witness our hands, this ..... day of ..... 19

(Sd.) A.B.

(Sd.) C.D.

Note: In the case of minor bride for whose marriage the consent of her guardian is required the guardian should sign on her behalf.

## THE THIRD SCHEDULE

[See section 14(1)]

## Form of Certificate of Notice

I,.....do hereby certify that, on the ..... day of ....., notice was duly entered in my Marriage Notice Book of the marriage intended between the parties therein named

\*Strike off what is inapplicable.

and described, delivered under the hand of both the parties, that is to say,—

Name	Condition	Occupation	Date of birth	Dwelling place	Perman-ent dwell-ing place, if present dwelling place not perma-nent.	Length of residence	Church, chapel or place of wor-ship in which marriage is to be solemnized (if the marri-age is to be so so-lemnized)
------	-----------	------------	---------------	----------------	---	---------------------	--

A.B. Unmarried

Widower

Divorcee

C.D. Unmarried

Widow

Divorcee

and that the declaration required by section\*..... of the Christian Marriage and Matrimonial Causes Act, 1989, has been duly made by the said\*.....date of notice entered .....

Date of certificate given .....

Witness my hand, this ..... day of ..... 19 .....  
(Sd)

This certificate will be void unless the marriage is solemnized on or before the .....day of ..... 19 .....

Licensed Minister†

Marriage Registrar

#### THE FOURTH SCHEDULE

[See section 10 (2) (c)]

Declaration to be made by the bridegroom

I, A.B., hereby declare as follows:—

1. I am at the present time unmarried (or a widower or a divorcee, as the case may be)
2. I have completed ..... years of age.
3. I am not related to C.D. (the bride) within the prohibited relationship.
4. I am a Christian.
5. I am aware that, if any statement in this declaration is false, I am liable to imprisonment and also to fine.

(Sd.) A.B. (the Bridegroom).

\*To be filled up.

†Strike off what is inapplicable.

*Declaration to be made by the Bride*

I, C.D., hereby declare as follows:—

1. I am at the present time unmarried (or a widow or a divorcee, as the case may be).
2. I have completed.....years of age.
3. I am not related to A.B. (the bridegroom) within the prohibited relationship.
4. I am a Christian.
5. I am aware that, if any statement in this declaration is false, I am liable to imprisonment and also to fine.

(Sd.) C.D. (the Bride)

Signed in our presence by the above-named A.B. and C.D. So far as we are aware there is no lawful impediment to the marriage.

(Sd.) G.H. }

(Sd.) I. J. }

Two witnesses

(Countersigned) E.F.

*Minister of a recognised Church\**

*Licensed Minister\**

*Marriage Registrar\**

Dated the ..... day of .....

19...

### THE FIFTH SCHEDULE

.....[See section 22 (1)]

#### *Form of Certificate of Marriage*

I, E.F., hereby certify that on the .....day of .....

19.....A.B. and C.D.\*\* appeared before me and that the declaration required by section† ..... of the Christian Marriage and Matrimonial Causes Act, 1989, was duly made, and that a marriage under that Act was solemnized between them in my presence and in the presence of two witnesses who have signed hereunder.

(Sd.) E.F.

*Minister of a recognised Church\**

*Licensed Minister*

*Marriage Registrar\**

Sd. A.B.

Bridegroom.

Sd. C.D.

Bride.

(Sd.) G.H. }

(Sd.) I.J. }

Two witnesses

Dated the ..... day of .....

19...

\*Strike off what is inapplicable.

\*\*Herein give particulars of the parties.

†To be entered.

## STATEMENT OF OBJECTS AND REASONS

There is no codified Christian Marriage law governing the solemnization of marriage, divorce, judicial separation, etc. The existing law has outlived the time and a new law is required. Marriage is considered to be a sacrament among the Christians. Only in a very rigid sense marriages are permitted to be treated as voidable. The belief is that marriages are decided in heaven and take place as per the God's wish and, therefore, whatever the consequences, the family is to suffer. The personal law has deteriorated and, therefore, a new law is required in this matter. In the absence of a common civil code, any law made must be in consonance with the provisions contained in the directive principles of Constitution of India.

The possible manner to regulate marriages and family life in India, can only be achieved by framing a personal law which is very close to common civil code as applicable to any Indian citizen and which respects religion and God and the cherishable practices of the religion. A law conducive to the community is required. The major pronouncements have been made by the Supreme Court and High Courts in India with regards to the marriage law. Taking into account all such directions and observations and experience gained, this Bill seeks to achieve this objective.

NEW DELHI;

THAMPAN THOMAS

February 1, 1989.

## FINANCIAL MEMORANDUM

Clause 8 of the Bill relates to the appointment of Marriage Registrars by the State Government which, in respect of the Union Territories, would be the Central Government. Ordinarily, existing Government officers will be appointed as Marriage Registrars and this has been the practice under the Indian Christian Marriage Act, 1872, which the present Bill seeks to replace. However, the possibility of a new officer being appointed exclusively for the purpose, in exceptional circumstances, cannot be ruled out and in that contingency some expenditure may be involved from the Consolidated Fund of India. The expenditure is of a remote and contingent character and therefore it is not possible to give any indication thereof at this stage.

## MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 72 of the Bill empowers the Central Government to make rules for carrying out the purposes of the Bill. The matters in respect of which such rules may be made relate, *inter alia*, to the duties, and powers of Marriage Registrars, their territorial jurisdiction, the manner in which they may hold enquiries and the procedure to be followed in such enquiries, the fees for the performance of various duties under the Act, the conditions under which licences to solemnise marriages may be issued by the State Government, the surrender of such licences and other matters of procedure, form or detail, and as such the delegation of legislative power is of a normal character.

## BILL NO. 5 OF 1989

*A Bill to provide for the welfare of all children who are born handicapped and mentally retarded.*

BE it enacted by Parliament in the Fortieth Year of the Republic of India as follows:—

Short  
title, ex-  
tent and  
com-  
mence-  
ment.

1. (1) This Act may be called the Welfare of Handicapped and Mentally Retarded Children Act, 1989.

(2) It extends to the whole of India.

(3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

Defini-  
tion.

2. In this Act, unless the context otherwise requires, "Government" means the Central Government or the State Government, as the case may be.



3. (1) There shall be established by the Central Government, a Board to be known as the "Central Social Welfare Board", hereinafter called the "Central Board".

Establishment of Central Social Welfare Board.

(2) The Central Board shall consist of the following members, who shall be appointed by the Central Government, namely:—

(a) an officer of the Ministry of Welfare, who shall act as its Chairman;

(b) four other members of whom two shall be from amongst those who are actively engaged in providing services and facilities to handicapped and mentally retarded children and the other two shall be handicapped persons.

4. It shall be the duty of the Central Board to enunciate the national policy in regard to handicapped and mentally retarded children and suggest ways and means for their rehabilitation in life.

Functions of the Central Board.

5. (1) There shall be established by every State Government or Union territory Administration, a Board to be known as the "State Social Welfare Board" or "Union territory Social Welfare Board", as the case may be, hereinafter called the "State Board" or the "Union territory Board", to advise and guide the Central Board about the requirements of a State or a Union territory for carrying out the purposes of this Act.

Establishment of State or Union territory Social Welfare Board.

(2) The State Board or the Union territory Board shall consist of the Chairman and such number of members, as may be determined by the State Government or the Union territory Administration, as the case may be.

6. It shall be the duty of every State and Union territory Board to carry out the policy of the Central Board and feed back the experience gained during the process of implementation of the policy and to give suggestions for improvement of the Policy.

Functions of the State or Union territory Boards.

7. (1) A fund to be called the "Handicapped and Mentally Retarded Children Fund" shall be constituted by the Central Government to promote the welfare of the handicapped and mentally retarded children.

Constitution of Handicapped and Mentally Retarded Children Fund.

(2) The Fund shall consist of the sums paid into it by the Central Government and the grants and donations given by the international agencies.

8. All children who are born handicapped or mentally retarded or declared mentally retarded shall be taken care of by the State or Union territory Boards, as the case may be.

Handicapped and Mentally Retarded Children to be taken care of by State or Union territory Boards.

Expenses  
on bring-  
ing up,  
etc. of  
handicap-  
ped and  
mentally  
retarded  
Children.

9. The expenses on bringing up, education and training for employment of handicapped and mentally retarded children shall be met from the Fund constituted under section 7.

Laying  
of An-  
nual  
Reports.

10. (1) Every State or Union Territory Board shall submit an annual report regarding its functions and activities to the Central Board.

(2) The Central Board shall submit the annual reports received from the State and Union Territory Boards and an annual report regarding its own activities to the Central Government, who shall cause them to be laid on the Table of each House of Parliament.

Power to  
make  
rules.

11. (1) The Central Government may make rules for carrying out the purposes of this Act.

(2) Every rule made by the Central Government under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

## STATEMENT OF OBJECTS AND REASONS

There are a large number of children who are born blind, handicapped or mentally retarded in India. It is found that they are not treated well in the society and it becomes difficult for them to make their livelihood. Therefore, there is an urgent need that the Government should make provision for their welfare and betterment so that they may not feel neglected by the society.

Hence this Bill.

NEW DELHI;

February 6, 1989.

SHANTILAL PATEL.

## FINANCIAL MEMORANDUM

Clause 3 of the Bill provides for the establishment of the Central Social Welfare Board. Clause 5 provides for the establishment of the State or Union territory Social Welfare Boards. Clause 7 provides for the constitution of Handicapped and Mentally retarded Children Fund monies into which shall be paid by the Central Government. As far as expenditure on State Boards is concerned, it will be from the Consolidated Fund of respective States. But, expenditure in regard to Union territory Boards shall have to be met from the Consolidated Fund of India. The Bill, therefore, if enacted, is likely to involve an estimated recurring expenditure of about rupees one crore from the Consolidated Fund of India.

A non-recurring expenditure of about rupees fifty lakhs is also likely to be incurred.

### MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 11 of the Bill empowers the Central Government to make rules for carrying out the purposes of the Bill. As the rules will relate to matters of detail only, the delegation of legislative power is of a normal character.

## BILL NO. 8 OF 1989

*A Bill to provide for compulsory sterilisation and for matters connected therewith.*

BE it enacted by Parliament in the Fortieth Year of the Republic of India as follows:—

Short  
title,  
extent,  
com-  
mence-  
ment  
and  
applica-  
tion.

1. (1) This Act may be called the Compulsory Sterilisation Act, 1989.

(2) It extends to the whole of India.

(3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

(4) It shall apply to all Indian citizens including those who at present are residing outside India.

Com-  
pulsory  
sterili-  
sation.

2. Either wife or husband of every couple, whose second living child is born after the coming into force of this Act, shall have to undergo sterilisation.

3. After a period of one year from the date of commencement of this Act, if any person procreates a third living child,—

(i) he shall be dismissed from service, if such person is an employee of the Central Government or of any public undertaking;

(ii) he shall be disqualified from voting at any election to the House of the People, the State Assemblies or Panchayats; and

(iii) he shall be punished with rigorous imprisonment for a period of four years.

4. Any living child born to a couple, who have two living children, after a period of one year from the date of commencement of this Act, shall not be given any social or educational benefits extended by the Central Government from time to time.

5. Notwithstanding anything contained in any other law for the time being in force, the provisions of this Act shall apply.

Punish-  
ment  
for not  
follow-  
ing the  
small  
family  
norm.

Social  
benefits,  
etc. not  
to be  
given in  
certain  
cases.

Over-  
riding  
effect of  
the Act.



## STATEMENT OF OBJECTS AND REASONS

There has been unprecedented rise in the population of the country. Measures for family planning which have been undertaken by the Government so far have not brought any result and the population is increasing day by day with the result that in spite of our alround progress, the country is going backwards. Therefore, there is an immediate need to control the increase in population. It is proposed that the norm of compulsory sterilisation of all persons having two children should be adopted to control the increase in population. Moreover, small families will also help in upbringing of the children in a better manner.

Hence this Bill.

G. S. BASAVARAJU.

NEW DELHI;  
February 6, 1988.

## BILL NO. 6 OF 1989

*A Bill further to amend the Constitution of India.*

BE it enacted by Parliament in the Fortieth Year of the Republic of India as follows:—

- |   |   |
|---|---|
| 1. This Act may be called the Constitution (Amendment) Act, 1989.   | Short title.                                |
| 2. For article 57 of the Constitution, the following article shall be substituted, namely:—                           | Substitution of new article for article 57. |
| “57. A person who holds, or who has held, office as President shall not be eligible for re-election to that office.”. | Ineligibility for re-election.              |

## STATEMENT OF OBJECTS AND REASONS

The office of the President being the highest office of the country, utmost care has to be taken to maintain its dignity and status. As per the provisions of article 57 of the Constitution, a person who is holding or who has held the office of the President is eligible for re-election to the office of the President. There are restrictions in some democratic countries on the re-election of the Head of the State beyond a certain specified period. This enhances the image and status of the high office.

So, in order to maintain the image and dignity of the office of the President of India and in keeping with the high traditions of democracy, it is necessary to amend the Constitution to make a person who holds or has held the office of President ineligible for re-election to that office so as to enable him to discharge the onerous duties cast upon him with dignity and honour.

Hence this Bill.

A. CHARLES

NEW DELHI;  
*February 8, 1989.*

## BILL NO. 9 OF 1989

*A Bill to provide for the fixation of wages of domestic workers and for the improvement of their working conditions.*

Be it enacted by Parliament in the Fortieth Year of the Republic of India as follows:—

1. (1) This Act may be called the Domestic Workers (Conditions of Service) Act, 1989.

(2) It extends to the whole of India except the State of Jammu and Kashmir.

(3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

(4) It shall apply to every individual employing one or more workers for domestic work in his house.

Short  
title,  
extent,  
com-  
mence-  
ment  
and  
applica-  
tion.

Defini-  
tions.

2. In this Act, unless the context otherwise requires,—

- (a) "domestic work" includes cooking, house-cleaning and attending to all other odd jobs connected with the house-hold chore;
- (b) "Government" means the Central Government; and
- (c) "worker" means any person employed for domestic work.

Applica-  
tion of  
the pro-  
visions  
of the  
Indus-  
trial Dis-  
putes  
Act, 1947.

3. (1) The provisions of the Industrial Disputes Act, 1947, as in force for the time being, shall, so far as applicable and subject to the modification specified in sub-section (2), apply to, or in relation to workers as they apply to, or in relation to, workmen within the meaning of that Act.

14 of  
1947.

(2) Section 25F of the aforesaid Act, in its application to workers, shall be construed as if in clause (a) thereof, for period of notice referred to therein in relation to the retrenchment of a workman, the following periods of notice in relation to the retrenchment of a worker had been substituted, namely:—

- (a) three months in case of workers who have been in continuous service for a period of not less than two years, and
- (b) two months in case of other workers.

Payment  
of gra-  
tuity to  
workers.

4. Where any worker has been in continuous service, whether before or after the commencement of this Act, for not less than one year, and—

- (i) his services are terminated by the employer for any reasons whatsoever, or
- (ii) he voluntarily resigns from service, or
- (iii) he dies while he is in service,

the worker or, in the case of his death, his nominee or if there is no nomination in force at the time of the death of the worker, his heirs, as the case may be, shall, without prejudice to any benefits or rights accruing under the Industrial Disputes Act, 1947, be paid, on such termination, resignation or death, by the employer gratuity which shall be equivalent to fifteen days' average pay for every completed year of service or any part thereof in excess of six months.

14 of  
1947.

Fixation  
of wages  
by the  
Govern-  
ment.

5. (1) The Government may, in consultation with the representatives of the workers from amongst the Unions or Associations of the Worker, by order,—

- (a) fix rates of wages in respect of workers; and
- (b) revise, from time to time, at such intervals as it may think fit, the rates of wages fixed under this section.

(2) The rates of wages may be fixed or revised by the Government in respect of workers for time work and for piece work.

Right to  
wages.

6. Every worker shall be entitled to be paid by his employer wages at the rates which shall in no case be less than the rate of wages specified in the order referred to in section 5.

7. No worker shall be required or allowed to work for more than eight hours during the day exclusive of the time for meals and leisure. Hours of work.

8. Every worker shall be allowed during a period of seven consecutive days, a rest for a period of not less than twenty-four consecutive hours. Period of rest.

9. Every worker, who has put in a service for a period of not less than six months, shall be entitled every year to the following leave, namely:— Leave entitlement.

Casual leave—12 days;

Sick leave—21 days;

Earned leave—1/11th of the number of days spent on duty.

10. Every employer of domestic workers shall prepare and maintain such registers, records and muster-rolls and in such manner as may be prescribed. Maintenance of registers and records.

11. (1) The State Governments or the Union territory Administrations, as the case may be, may, by notification in the Official Gazette, appoint such persons as they think fit to be Inspectors for the purpose of this Act and may define the local limits within which they shall exercise their powers. Appointment of Inspectors.

(2) Every Inspector shall be deemed to be a public servant within the meaning of the Indian Penal Code.

12. An Inspector may,—

Power of Inspectors.

(a) require any person to produce any register, muster-roll or other documents relating to the employment of workers by him and examine such documents;

(b) take, on the spot or otherwise, the evidence of any person for the purpose of ascertaining whether the provisions of this Act or any other Act made applicable to the domestic workers are complied with notwithstanding any other authority who may be empowered with the same powers or any part thereof.

13. If any employer contravenes the provisions of this Act, he shall be punishable with fine which may extend to one thousand rupees notwithstanding any other punishment to which he may be liable for the contravention of any other law for the time being in force governing the domestic workers. Punishment.

14. The Government may, by notification in the Official Gazette, make rules to carry out the purposes of this Act. Power to make rules.

## STATEMENT OF OBJECTS AND REASONS

There are millions of domestic servants working as maid-servants or male-servants to attend to household and other personal work. The working conditions of these domestic servants are miserable and primitive. They are required to work for almost 18 hours a day. There is no protection for these workers under any statute. They are neither paid reasonable wages nor their hours of service are determined. They are not given any rest or leisure during the day. They are also not provided any benefits such as gratuity, provident fund, bonus, leave with wages, holidays, etc. Their services can also be terminated at any time without notice and without any compensation by their masters.

The domestic servants have been agitating for better service conditions throughout the country. It is, therefore, essential to regulate their service conditions.

Hence this Bill.

NEW DELHI;  
February 9, 1939.

THAMPAN THOMAS



## FINANCIAL MEMORANDUM

Clause 11 of the Bill provides that the State Governments or the Union territory Administrations, as the case may be, may appoint such persons as they think fit to be Inspectors for the purposes of this Act. Some persons might have to be recruited as Inspectors for carrying out the provisions of this Act. The State Governments will incur expenditure from their respective consolidated funds for payment of salaries and allowances, etc. to the Inspectors and the Central Government would have to incur expenditure in respect of Inspectors appointed by the Union territory administrations from the Consolidated Fund of India.

It is estimated that a recurring expenditure of about rupees ten lakhs is likely to be involved from the Consolidated Fund of India per annum.

It is also likely to involve a non-recurring expenditure of about rupees ten lakhs.

## MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 14 of the Bill empowers the Central Government to make rules for carrying out the purposes of this Bill. Since the rules will relate to matters of detail only, the delegation on legislative power is of a normal character.

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SUBHASH C. KASHYAP,  
*Secretary-General.*